

REMARKS

Claims 1-4, 6-17 and 19-25 are pending in the present application. The Applicants have not amended the claims in this reply. The Applicants respond to the issues raised in the November 5, 2008 final Office Action as follows:

Claim Rejections - 35 USC § 103

Claims 1-4, 6-9, 11-15, 17, 19-21, 23 and 25 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,638,519 to Haluska ("Haluska") in view of U.S. Patent No. 6,304,857 to Heindel ("Heindel") and in further view of U.S. Patent Application Publication No. US 2003/0083890 to Duncan et al. ("Duncan"). Haluska discloses a computer based method of coordinating the inventory of a seller and a distributor so that both receive information pertaining to a transaction. Heindel discloses a distributed electronic billing system and Duncan discloses an automated pack out method. Duncan has been cited as teaching the shipment of the shipping document containing the distributor's information with the order.

At page 4 of the final Office Action, the Examiner found that a combination of Haluska and Heindel teaches shipping documents with the manufacturer's name and logo and that it would have been obvious to substitute the distributors name and logo. However, the Examiner also found at page 4 of the Office Action that:

The combination of Haluska and Heindel teaches all the elements of the claimed invention but is silent regarding shipping by said distributor or said manufacturer of said customer shipping document with said filled customer order.

In the response to the previous Office Action, the Applicants argued that the claims require that the customer shipping document includes the distributor's information but not the manufacturer's information—whether the order is shipped to the customer by the distributor or by the manufacturer—so that it appears to the customer that the order was filled by the distributor and the manufacturer's role in filling the order is not disclosed. In the final Office Action, Duncan has been cited to overcome the deficiency in the combination of Haluska and Heindel acknowledged by the Examiner.

The present application was filed on October 1, 2003 and claims priority from U.S. provisional patent application Serial No. 60/431,462, filed on December 6, 2002. Duncan was filed on November 1, 2001 and published on May 1, 2003, less than one year before the filing of the present application and after the provisional application was filed. The Applicants are submitting herewith a declaration under 37 C.F.R. 1.131, which provides proof that the present invention was made prior to the filing of the Duncan application on November 1, 2001. Accordingly, the Applicants respectfully request that the rejection of the claims based on Duncan be withdrawn.

Claims 10 and 24 have been rejected as being unpatentable over Haluska in view of Heindel and further in view of U.S. Patent No. 6,023,683 to Johnson, which discloses an electronic sourcing system. Johnson has been cited as teaching a system wherein a purchase order is transmitted from the distributor to the manufacturer. Claims 10 and 24 depend on claims 1 and 12, respectively. Therefore, if Duncan is withdrawn as a prior art reference and

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claims 1 and 12 are not obvious in view of the prior art, dependent claims 14 and 24 are also not obvious.

Conclusion

The Applicants submit that the Applicants' Rule 131 Declaration and the accompanying remarks have overcome the rejections of the claims and respectfully request that the rejections be withdrawn and the claims allowed.

If the Examiner has any questions or comments relating to the present application, the Examiner is respectfully invited to contact Applicants' attorney at the telephone number set forth below.

Respectfully submitted,

A handwritten signature in black ink, reading "Kevin E. McDermott". The signature is fluid and cursive, with a long horizontal line extending to the right.

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